

Case 3:97-cv-01618-JP Document 66 Filed 12/27/2006 Page 1 of 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

RAFAEL TORMES-ORTIZ,

Plaintiff

v.

CIVIL NO. 97-1618 (JP)

UNITED STATES OF AMERICA,

Defendant

FINAL JUDGMENT

For the reasons stated in this Court's Opinion and Order, the Court hereby **ENTERS JUDGMENT DISMISSING WITH PREJUDICE** Petitioner Rafael Tormes-Ortiz's Complaint for relief under 28 U.S.C. § 2255. This Judgment is entered without the imposition of costs and attorney's fees.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 20th day of December, 2006.

s/Jaime Pieras, Jr.
JAIME PIERAS, JR.
U.S. SENIOR DISTRICT JUDGE

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

rj-m06.notice of appeal

RAFAEL TORMES-ORTIZ

PETITIONER

V.

UNITED STATES OF AMERICA
RESPONDENT

CASE NO: 97 - 1618 (JP)

NOTICE OF APPEAL

TO THE HONORABLE COURT:

COMES NOW Petitioner **RAFAEL TORMES-ORTIZ** through the subscribing **ATTORNEY**, who very respectfully alleges and prays:

The appearing Petitioner wishes to appeal to the United States Court of Appeals for the First Circuit, from the **Final Judgment** entered by the Court on **December 20th, 2006**. It is informed that on herein mentioned date was that the petitioner was able to contact the subscriber, in writing, requesting such mandate. It is further informed that the defendant will need for the United States Court of Appeals to appoint Counsel to handle the Petitioner's Appeal.

WHEREFORE, it is most respectfully requested that this Honorable Court take knowledge of the aforementioned.

I HEREBY CERTIFY that on **January 18th, 2007**, I electronically filed the foregoing motion with the Clerk of the Court using the **CM/ECF** system, which will also notify **A.U.S.A. MARIA DOMINGUEZ - VICTORIANO**, Appellant Counsel **TERESA**

EXHIBIT B

A. WALLBAUM and RAFAEL TORMES ORTIZ, Reg. #44128-080, USP/Max, POB 8500, Florence, CO 81226-8500.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 18th day of January of the year 2007.

By: /s/ **PETER JOHN PORRATA**
#128901

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UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 07-1286
PR DC No. 97-cv-01618

RAFAEL TORMES-ORTIZ,
Petitioner, Appellant,

v.

UNITED STATES,
Respondent, Appellee.

ORDER OF COURT

Entered: April 5, 2007
Pursuant to 1st Cir. R. 27.0(d)

On February 22, 2007, this court notified appellant that this case could not go forward unless a certificate of appealability issues. The appellant was directed to file an application for a certificate of appealability in the district court and to file a status report with this court by March 26, 2007. A review of the district court docket indicates that an application for a certificate of appealability *has not* been docketed.

Our records indicate that the docket fees - a total of \$455.00 - have **not been paid to the District Court** in accordance with Rule 3(b) of the Federal rules of Appellate Procedure. If payment has been made, please submit a copy of the receipt, referencing the above docket number to the Court of Appeals. If the appellant is indigent and unable to pay the docketing fees, an application to proceed on appeal in forma pauperis must **first be filed in the District Court of Puerto Rico**. This office should be immediately notified if such a motion is filed in the district court in order to avoid dismissal of this appeal for lack of prosecution in this court. A compliant request for in forma pauperis status consists of a motion, fully completed Form 4, Financial Affidavit, along with a certified prison trust account statement, if incarcerated.

If the district court denies the application to proceed on appeal in forma pauperis, you must either pay the docketing fees or file a compliant request to proceed in forma pauperis **in the Court of Appeals** within 30 days after service of the notice of the district court's action. See Fed.R.App.P. 24(a).

Appellant is directed to file in the district court his application for a certificate of appealability and file a status report in the court of appeals on or before **April 20, 2007**. The appellant is further directed to respond to this court in writing regarding the outstanding fee issue on or before **April 20, 2007**.

By the Court:

Richard Donovan, Clerk

By: MARGARET CARTER
Chief Deputy Clerk

[cc: Messrs. Tormes-Ortiz, Porrata, Ms. Dominguez-Victoriano, Ms. Wallbaum]

Exhibit C